

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES
(Attorney Docket № 14279US02)**

In the Application of:

Jeyhan Karaoguz, et al.

Serial № 10/675,490

Filed: September 30, 2003

For: PERSONAL MEDIA PROGRAM
PRODUCTION IN A MEDIA
EXCHANGE

Examiner: Patrick A. Ryan

Group Art Unit: 2427

Confirmation № 5995

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APPEAL BRIEF

Mail Stop Appeal Brief – Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This is an appeal from an Office Action dated November 9, 2010 ("Final Office Action"), in which claims 1-37 were finally rejected. The Appellant respectfully requests that the Board of Patent Appeals and Interferences ("Board") reverses the final rejection of claims 1-37 of the present application. The Appellant notes that this Appeal Brief is timely filed within the period for reply that ends on February 9, 2011.

REAL PARTY IN INTEREST
(37 C.F.R. § 41.37(c)(1)(i))

Broadcom Corporation, a corporation organized under the laws of the state of California, and having a place of business at 5300 California Avenue, Irvine, California 92617, has acquired the entire right, title and interest in and to the invention, the application, and any and all patents to be obtained therefor, as set forth in the Assignment recorded at Reel 014244, Frame 0422 in the PTO Assignment Search room.

RELATED APPEALS AND INTERFERENCES
(37 C.F.R. § 41.37(c)(1)(ii))

The Appellant is unaware of any related appeals or interferences.

STATUS OF THE CLAIMS
(37 C.F.R. § 41.37(c)(1)(iii))

The present application includes pending claims 1-37, all of which stand rejected under 35 U.S.C. § 103(a). See the Final Office Action at page 7. The Appellant identifies claims 1-37 as the claims that are being appealed. The text of the pending claims is provided in the Claims Appendix.

STATUS OF AMENDMENTS
(37 C.F.R. § 41.37(c)(1)(iv))

The Appellant has not amended any claims subsequent to the final rejection of claims 1-37 mailed on November 9, 2010.

SUMMARY OF CLAIMED SUBJECT MATTER
(37 C.F.R. § 41.37(c)(1)(v))

Independent claim 1 recites the following:

A method for producing and delivering media content, the method comprising:

establishing a personal television channel at a first geographic location, said personal television channel associated with existing media content¹;

creating metadata associated with said existing media content²;

modifying said existing media content with additional media content to produce a media program, wherein said metadata is created previously to said modifying³;

editing, at said first geographic location, said previously created metadata associated with said media content, said editing based on said additional media content⁴;

associating said produced media program and said edited metadata with said established personal television channel⁵; and

communicating said produced media program along with said edited metadata to another geographic location⁶.

Independent claim 11 recites the following:

¹ See present specification at, e.g., p. 3, lines 2-6; Fig. 1B – personal media channels 102.

² See *id.* at, e.g., p. 7, lines 6-7.

³ See *id.* at, e.g., p. 7, lines 4-5; p. 12, line 29 – p. 13, line 1; Fig. 1C – block 122.

⁴ See *id.* at, e.g., p. 7, lines 7-9; p. 13, lines 1-2 and 19-22; Fig. 1C – block 123.

⁵ See *id.* at, e.g., p. 3, lines 3-6; p. 7, lines 9-15.

⁶ See *id.* at, e.g., p. 13, lines 2-4; Fig. 1C – block 124; Figs. 1A and 2B – pushing of media from, e.g., user's home 3 to parents' home 10; p. 15, line 24 – p. 16, line 6.

A non-transitory computer-readable medium having stored thereon, a computer program having at least one code section for producing and delivering media content, the at least one code section being executable by a machine for causing the computer to perform steps comprising⁷:

establishing a personal television channel at a first geographic location, said personal television channel associated with existing media content⁸;

creating metadata associated with said existing media content⁹;

modifying said existing media content with additional media content to produce a media program, wherein said metadata is created previously to said modifying¹⁰;

editing, at said first geographic location, said previously created metadata associated with said media content, said editing based on said additional media content¹¹;

associating said produced media program and said edited metadata with said established personal television channel¹²; and

communicating said produced media program along with said edited metadata to another geographic location¹³.

⁷ See *id.* at, e.g., p. 3, lines 17-21.

⁸ See *id.* at, e.g., p. 3, lines 2-6; Fig. 1B – personal media channels 102.

⁹ See *id.* at, e.g., p. 7, lines 6-7.

¹⁰ See *id.* at, e.g., p. 7, lines 4-5; p. 12, line 29 – p. 13, line 1; Fig. 1C – block 122.

¹¹ See *id.* at, e.g., p. 7, lines 7-9; p. 13, lines 1-2 and 19-22; Fig. 1C – block 123.

¹² See *id.* at, e.g., p. 3, lines 3-6; p. 7, lines 9-15.

¹³ See *id.* at, e.g., p. 13, lines 2-4; Fig. 1C – block 124; Figs. 1A and 2B – pushing of media from, e.g., user's home 3 to parents' home 10; p. 15, line 24 – p. 16, line 6.

Independent claim 21 recites the following:

A system for producing and delivering media content¹⁴, the system comprising:

at least one processor for establishing a personal television channel at a first geographic location, said personal television channel associated with existing media content¹⁵;

said at least one processor enables creating metadata associated with said existing media content¹⁶;

said at least one processor enables modifying said existing media content with additional media content to produce a media program, wherein said metadata is created previously to said modifying¹⁷;

said at least one processor enables editing, at said first geographic location, of previously created metadata associated with said media content, said editing based on said additional media content¹⁸;

said at least one processor enables associating of said produced media program and said edited metadata with said established personal television channel¹⁹; and

said at least one processor enables communicating said produced media program along with said edited metadata to another geographic location²⁰.

¹⁴ See *id.* at, e.g., p. 3, line 22 – p. 4, line 5.

¹⁵ See *id.* at, e.g., p. 3, lines 2-6; Fig. 1B – personal media channels 102.

¹⁶ See *id.* at, e.g., p. 7, lines 6-7.

¹⁷ See *id.* at, e.g., p. 7, lines 4-5; p. 12, line 29 – p. 13, line 1; Fig. 1C – block 122.

¹⁸ See *id.* at, e.g., p. 7, lines 7-9; p. 13, lines 1-2 and 19-22; Fig. 1C – block 123.

¹⁹ See *id.* at, e.g., p. 3, lines 3-6; p. 7, lines 9-15.

**GROUND OF REJECTION TO BE REVIEWED ON APPEAL
(37 C.F.R. § 41.37(c)(1)(vi))**

Claims 1-7, 10, 11-17, 20, 21-27, 30-32, 34 and 36 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over USPP 2002/0104099 ("Novak") in view of USP 6,628,303 ("Foreman"). See Final Office action at page 7. Claims 8-9, 18-19 and 28-29 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Novak and Foreman, in view of USP 7,284,032 ("Weber"). See Final Office Action at page 14. Claims 33, 35 and 37 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Novak and Foreman, in view of Appellant's admission of fact. See Final Office Action at page 16.

²⁰ See *id.* at, e.g., p. 13, lines 2-4; Fig. 1C – block 124; Figs. 1A and 2B – pushing of media from, e.g., user's home 3 to parents' home 10; p. 15, line 24 – p. 16, line 6.

ARGUMENT
(37 C.F.R. § 41.37(c)(1)(vii))

In the Final Office Action, claims 1-7, 10, 11-17, 20, 21-27, 30-32, 34 and 36 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over USPP 2002/0104099 ("Novak") in view of USP 6,628,303 ("Foreman"). Claims 8-9, 18-19 and 28-29 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Novak and Foreman, in view of USP 7,284,032 ("Weber"). Claims 33, 35 and 37 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Novak and Foreman, in view of Appellant's admission of fact.

I. The Proposed Combination of Novak and Foreman Does Not Render Claims 1-7, 10, 11-17, 20, 21-27, 30-32, 34 and 36 Unpatentable

A. Independent Claims 1, 11 and 21

With regard to the rejection of independent claim 1 under 35 U.S.C. § 103(a), the Appellant submits that the combination of Novak and Foreman does not disclose or suggest at least the limitation of "editing, at said first geographic location, previously created metadata associated with said media content, said editing based on said additional media content," as recited by the Appellant in independent claim 1.

The Final Office Action states the following:

In reference to Claim 1, Novak teaches a method for producing and delivering media content (as shown in Figs. 4 and 11; with further reference to the descriptions of Paragraphs [0056-0060; 0077-0086]), the method comprising:

establishing a personal television channel at a first geographic location ("Joe's TV Channel" as shown in Figs. 6-9 created by the method of Figs. 4 and 11; With further reference to the operations of Upload Source 122, as described in Paragraphs [0039, 0040, 0041, 0046, 0055, 0056, 0068, 0070, 0074, and 0080]), said personal television channel associated with existing media content ("Joe's TV Channel" with associated with media objects, as shown in Fig. 7 and described in Paragraph [0039,0064]);

creating metadata associated with said existing media content (Fields 706 of Fig. 7 allow an individual to enter media object information or preferences, such as identifiers for date, time slot, media object identifier (10), media object description, or file type, as described in Paragraph [0063-0067]);

However, Novak does not clearly disclose modifying said existing media content with additional media content to produce a media program, wherein said metadata is created previously to said modifying; and editing, at said first geographic location, said previously created metadata associated with said media content, said editing based on said additional media content.

In a similar field of invention, Foreman teaches a graphical user interface for producing a video program using planning, capturing, editing, and recording functions (Abstract, Col. 4 Lines 16-33). Foreman further discloses the Interface 56 of Fig. 9, which allows a user to modify existing media content with additional media content such as transitions between clips (using effects tab Interface 153, as described in Col. 15 Lines 13-39; with further reference to Fig. 10), titles (using titles tab Interface 154, as described in Col. 15 Line 40-Col. 16 Line 7; with further reference to Fig. 11), and sounds such as voice-over commentary (using sound tab Interface 155, as described in Col. 16 Lines 8-27; with further reference to Fig. 12 and Interface 220). Additionally, Fig. 16 of Foreman [sic] demonstrates "an example operation in which the clip descriptions and shot descriptions are synchronized" (Col. 10 Lines 56-58). In particular, at Step 226 of Fig. 16 metadata is associated with a media program ("Associate Data File With a Clip" of Fig. 16, as described in Col. 10 Lines 60-65). Then at Step 230, a process of editing the previously created metadata (from Step 226) is performed based on additional media content ("description modifies its duration and pointer to reference the new clip description", as shown in Fig. 16 and described in Col. 10 Line 65-Col. 11 Line 2; with further reference to Col. 11 Line 3-Col. 12 Line 31).

Both Novak and Foreman teach methods and systems for generating a media program from existing media content with associated metadata. Novak discloses a method of allowing an individual to control aspects of the media program such as content type, length, sequence, and availability (Paragraph [0025, 0063-0067]). Foreman discloses a method similar to Novak and further provides an interface allowing a user to modify aspects of individual clips with additional content such as transitions and voice-over commentary (as presented above). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the method of personal media program generation taught by Novak with the method of modifying media content with additional content, as taught by Foreman, in order to provide the user with the ability to further personalize the media presentation with content such as voice-over commentary.

See Final Office Action at pages 7-9. In the above argument, the Examiner has equated Appellant's modifying of the existing media content to Novak's completion of fields 706 (entering media object information or preferences). The Appellant respectfully disagrees and points out that entering of the media object information and preferences do not include any modification to the related media content. In other words, there really isn't any modifying of existing media content by Novak's user interface 702. Novak's content, as created by the upload source, stays the same and related information and preferences are added only for purposes of organizing the synthetic channel.

Furthermore, the Examiner has equated Appellant's editing of metadata with Novak's customization of fields 706, as described in paragraphs 0064-0067 and Fig. 7 of the reference. More specifically, the Examiner alleges that the information described by headings 704 (e.g., date, time slot, file type, media object description, etc) is equivalent to Appellant's metadata. Even if we assume, arguendo, that the headings

704 are metadata for the corresponding media files, the Final Office Action is still deficient. More specifically, **the information described by headings 704 is not “previously created metadata.”** Fig. 7 of Novak illustrates the user interface that can be used to create the synthetic channel. Obviously, the information described by headings 704 is being currently created by the user interface in the process of setting up the synthetic channel, and it is not previously existing (or previously created). At most, Novak, in Fig. 7, discloses creation of new metadata, not modification/editing of previously created metadata.

Furthermore, even if we assume, arguendo, that Fig. 7 illustrates editing of “previously created metadata”, the Final Office Action is still deficient. More specifically, **Novak, including Fig. 7, does not disclose that such editing of metadata is based on the additional media content used to modify the existing media content.**

It seems the Examiner agrees with the above arguments as he states the following in page 8 of the Final Office Action:

However, Novak does not clearly disclose modifying said existing media content with additional media content to produce a media program, wherein said metadata is created previously to said modifying; and editing, at said first geographic location, said previously created metadata associated with said media content, said editing based on said additional media content.

The Examiner then relies for support on Foreman. Foreman, however, is deficient for at least the following reasons:

1. Foreman's Storyboard Descriptions Are Not Previously Created Metadata Associated with Media Content

Foreman discloses a graphical user interface for a computer-assisted motion video editing system. More specifically, computer system 20 offers a "storyboard" interface 52, a "bring video in" interface 54, an "edit movie" interface 56, and a "send movie out" interface 58.

The storyboard interface 52 enables a user to plan the motion video program to be prepared. More specifically, the storyboard interface 52 can be represented by the data structure 86 of shot descriptions 87 (Fig. 6), which stores a pre-planned outline for each shot (e.g., shot title, filming/editing tips, duration and pointer to the video file). In other words, the storyboard interface 52 is used by the user in the planning stage of video production, where the user makes an outline (or a story line) by selecting how many shots his video will have, what titles, etc. **All the steps of creating the storyboard shot descriptions 87, however, are created prior to bringing the video in** (which is the subsequent step done by interface 54). See, e.g., Foreman, at col. 7, line 25 – col. 8, line 30. **Consequently, when the storyboard shot descriptions 87 are created, they are not metadata (or "previously created metadata) as they are not associated with any video data (as there is no video brought in for editing).**

2. Foreman's FIG. 16 Does Not Disclose Editing of Previously Created Metadata

The Appellant points out that **the metadata** related to the video file (after the video file is brought in via interface 54) **is represented by data structure 88** (fig. 7). Referring to Foreman's Fig. 16, after video data is captured in steps 222 and 224, a

data structure 88 is created, which describes the captured video clip. The Appellant notes that the storyboard shots descriptions have already been created prior to capturing the video. After the video clip is captured and its data structure 88 is created, at step 228, a message is sent to the storyboard indicating that a clip with certain duration was created. Since the captured clip is for a specific shot description (87), the storyboard, in step 230, records the clip duration (98) and the pointer (100) to the captured clip location. It is at this point (in step 230) that the specific shot description (87) is in fact associated with actual (captured) video data. As explained above, **prior to capturing the video data, the storyboard shot descriptions 87 simply form an outline and cannot be considered a metadata as they are not actually associated with any video data. Therefore, Foreman (in steps 228-230 of Fig. 16) does not disclose any editing of previously created metadata as there was simply no metadata prior to the actual capturing of the video data.**

To summarize:

- At step 220 (Fig. 16), a "data file" for the video information is created. However, at this point of the "data file" creation, no actual video clip has been taken/captured and the "data file" is simply an outline. Therefore, **since the "data file" is not associated with any media/video, it is not metadata but simply an outline.**
- At step 230, the "shot" description within the storyboard interface 52 is updated with the clip duration and pointer to the newly created video clip.

More specifically, step 230 updates fields 98 and 100 (fig. 6) within the storyboard 86. Step 230, however, does **not** update in any way the data file (i.e., the alleged “metadata”) associated with the captured video clip. In addition, Foreman (in step 230 or any other step) does not disclose that the data file (i.e., the alleged “metadata”) associated with the captured video clip is edited based on additional media content.

- The Examiner also relies on Fig. 9 of Foreman (and its corresponding description at col. 11, l. 3 – col. 12, l. 27). However, Fig. 9 describes several selectable interfaces for performing a detailed editing of the video program, and **not** the data file (i.e., the alleged “metadata”) created in step 220

The Examiner is also referred for additional clarification to the arguments stated in Section I-B herein below.

Therefore, the Appellant maintains that the combination of Novak and Foreman does not disclose or suggest at least the limitation of “editing, at said first geographic location, previously created metadata associated with said media content, said editing based on said additional media content,” as recited by the Appellant in independent claim 1.

Accordingly, the proposed combination of Novak and Foreman does not render independent claim 1 unpatentable, and a *prima facie* case of obviousness has not been established. The Appellant submits that claim 1 is allowable. Independent claims 11 and 21 are similar in many respects to the method disclosed in independent claim 1.

Therefore, the Appellant submits that independent claims 11 and 21 are also allowable over the references cited in the Final Office Action at least for the reasons stated above with regard to claim 1.

B. EXAMINER'S RESPONSE TO ARGUMENTS

The Examiner states the following at pages 4-6 of the Final Office Action:

The Examiner has additionally presented that Novak does not clearly demonstrate "modifying said existing media content with additional media content to produce a media program, wherein said metadata is created previously to said modifying; and editing, at said first geographic location, said previously created metadata associated with said media content, said editing based on said additional media content" (Office Action Page 8 and quoted by Applicant in Reply Page 24).

To supplement the teachings of Novak, the Examiner has relied on Foreman's teachings of a graphical user interface for producing a video program using planning, capturing, editing, and recording functions (Abstract, Col. 4 Lines 16-33; with further reference to Office Action Pages 8-9 and as quoted by Applicant in Reply Page 24).

(1) It is the Examiner position that Foreman demonstrates at least two instances of the claimed "metadata". In particular, Foreman describes "clips" and "shots", where the process of Figure 16 is "an example operation in which the clip descriptions and shot descriptions are synchronized" (Col. 10 Lines 56-58). At Step 226 of Fig. 16 metadata is associated with a media program ("Associate Data File With a Clip" of Fig. 16, as described in Col. 10 Lines 60-65). The Examiner notes that "metadata is associated with a media program" using the interface of Figure 8 (as described in Col. 9 Line 20-Col. 10 Line 35).

(2) In response to Applicant's arguments in Reply Pages 26-27 (Point #1), the Examiner is not asserting that Foreman teaches the claimed "editing ... " clause at Step 226 of Fig. 16, but rather the Examiner is citing this portion of Foreman to demonstrate a similar "creating metadata ... " step to that taught by Novak (as described above). For

example, both Novak and Foreman describe similar techniques for creating metadata associated with media content (i.e. a description, a title, a duration, etc.; Novak in Paragraph [0063] and Foreman in Col. 10 Line 60-65). Additionally, the Examiner emphasizes that Foreman states "[a] clip description is created with a reference to the data file, and start and stop times corresponding to the beginning of the file in step 226" (Col. 10 Lines 61-63). Therefore, in response to Applicants arguments in Reply Pages 27 -28 (Point #2), the Examiner is not specifically using Foreman's "data file" to address the claimed "metadata", but is more generally identifying the claimed metadata as descriptive information associated with media content.

(3) The Examiner has also previously stated (Office Action Page 9) that at Step 230, a process of editing the previously created metadata (from Step 226) is performed based on additional media content ("description modifies its duration and pointer to reference the new clip description", as shown in Fig. 16 and described in Col. 10 Line 65-Col. 11 Line 2; with further reference to Col. 11 Line 3-Col. 12 Line 31). The Examiner notes that the claimed "editing the previously created metadata" is preformed by way of the interface of Figure 9 where "[a]fter clips for a movie have been captured, more finely detailed editing of the video program can be started" (as described in Col. 11 Line 3-Col. 12 Line 31). In particular, Foreman discloses that the Interface 56 of Figure 9 allows a user to modify existing media content with additional media content such as transitions between clips (using effects tab Interface 153, as described in Col. 15 Lines 13-39; with further reference to Fig. 10), titles (using titles tab Interface 154, as described in Col. 15 Line 40-Col. 16 Line 7; with further reference to Fig. 11), and sounds such as voice-over commentary (using sound tab Interface 155, as described in Col. 16 Lines 8-27; with further reference to Fig. 12 and Interface 220).

(Numbering of paragraphs added by Appellant).

In reference to Examiner's ARGUMENT (2) above: Pages 26-27 of the 8/27/2010 response (which also appear as Section I-A-1, page 11, above) is entitled "1.Foreman's Storyboard Descriptions Are Not Previously Created Metadata Associated with Media Content." The Appellant is not asserting that Foreman teaches the "editing..." clause at Step 226 (the Examiner alleges the "editing..." clause is performed at

Foreman's Step 230). The Appellant was simply explaining why the storyboard descriptions within Foreman's data file are not metadata.

The Examiner states that he "is not specifically using Foreman's "data file" to address the claimed "metadata"". However, this contradicts the Examiner's statement that "at Step 226 of Fig. 16 metadata is associated with a media program ("Associate Data File With a Clip"...)." (See Final OA, p. 5, lines 1-2). As explained in section I-A above, one of Foreman's major deficiencies is that when the "data file" is created (i.e., when all the storyboard shot descriptions are created), the entire "data file" (and its associated storyboard shot descriptions) is created only as a template and it is not associated with any media file. Therefore, regardless of whether the Examiner considers the entire "data file" or its storyboard shot descriptions content as metadata, the fact remains that at step 220 (when the "data file" is created) and prior to step 226 (when the "data file" is associated with a clip), the "data file" or (its storyboard shot descriptions content) is not "previously created metadata" associated with media content.

In reference to Examiner's ARGUMENTS (1) and (3) above:

The Applicant respectfully disagrees. It seems the Examiner has misinterpreted the terms "shot" and "clip", as well as the corresponding shot/clip description synchronization in Fig. 16 of Foreman. As explained in the 11/5/2009, 3/19/2010, 4/16/2010, and 8/27/2010 responses, Foreman discloses the use of a storyboard interface 52 (or storyboarding) as way for the user to plan a video program to be prepared. More

specifically, the storyboard interface 52 (see Fig. 5) is simply a template that outlines the future video program to be prepared (e.g., it describes a title 70 and a sequence of descriptions 72 for each shot planned in the video program). In other words, a “**shot**” is simply a part of the storyboard template 52, and it provides the description of a planned segment of video. See Foreman at col. 7, lines 39-64.

Foreman uses the term “**clip**” to designate the actual captured video data, which can be associated with a given template “shot”. Foreman also uses the term “**data file**” to refer to the data structure 88 (Fig. 7), which is used for producing the actual motion video program, or the clip. See Foreman at col. 8, lines 16-49.

Obviously, **at the time of creating the storyboard template, the “shot” templates (e.g., any of the shot templates in Fig. 5) are not yet associated with corresponding video clips.** The process of associating the shot templates to the corresponding video clips is described in Fig. 16.

More specifically, in *step 220 (Fig. 16)*, a “data file” for the video information is created (i.e., a data structure, such as data structure 88, for video information is created). **It is important to note that at this point, no actual video clip has been taken/captured and, therefore, the “data file” is not associated with any media/video and it is not metadata for any specific media/video.**

It is only after *steps 222-224*, that the video clip has been captured.

At **step 226**, the data file created in step 220 is now associated with the captured video clip, and video clip description is stored in the data structure 88 of the data file.

(NOTE: This step is equated by the Examiner to associating metadata with a media program. In other words, this is when, according to the Examiner, the “metadata” is actually created).

At *step 228*, a message is passed to the storyboard interface 52, indicating that for a given “shot” a corresponding clip (with a certain duration) has been created.

At **step 230**, the “shot” description within the storyboard interface 52 is updated with the clip duration and pointer to the newly created video clip. More specifically, step 230 updates fields 98 and 100 (fig. 6) within the storyboard 86. **(NOTE: This step is equated by the Examiner to “editing ... said previously created metadata”).**

In the above citation, the Examiner states:

At Step 226 of Fig. 16 metadata is associated with a media program ...
Then at Step 230, a process of editing the previously created metadata.

The Applicant notes that **the Examiner (see above Office Action citation) has equated Foreman’s “data file” to Applicant’s “metadata”. The Examiner has also equated Applicant’s “editing of previously created metadata” to the process in step 230 (Fig. 16).** The Applicant disagrees.

As explained above, **Foreman, in step 230 (Fig. 16), simply updates the “shot” template description** (storyboard template fields 98 and 100 from Fig. 6) within the storyboard interface 52 **(and not the “data file”, which is the alleged “metadata”)**, with the clip duration and pointer to the newly created video clip. **Foreman, in step 230 (Fig. 16) or any remaining figure for that matter, does not disclose that the data file**

(i.e., the alleged “metadata”) associated with the captured video clip is updated in any way. In addition, Foreman (in step 230 or any other step) does not disclose that the data file (i.e., the alleged “metadata”) associated with the captured video clip is edited based on additional media content.

The Examiner also states the following in page 6 of the Office Action:

The Examiner notes that “editing the previously created metadata” is performed by way of the interface of Figure 9 (as described in Col. 11 Line 3-Col. 12 Line 31). The Examiner additionally notes that Foreman discloses “[a]fter clips for a movie have been captured, more finely detailed editing of the video program can be started” (Col. 11 Lines 3-4).

The Applicant notes that Fig. 9 of Foreman (and its corresponding description at col. 11, l. 3 – col. 12, l. 27) describes several selectable interfaces for performing a detailed editing of the video program, and not the data file (i.e., the alleged “metadata”) created in step 220.

To summarize:

- At step 220 (Fig. 16), a “data file” for the video information is created. However, at this point of the “data file” creation, no actual video clip has been taken/captured. Therefore, since the “data file” is not associated with any media/video, it does **not** qualify as metadata.
- At step 230, the “shot” description within the storyboard interface 52 is updated with the clip duration and pointer to the newly created video clip. More specifically, step 230 updates fields 98 and 100 (fig. 6) within the

storyboard 86. Step 230, however, does **not** update in any way the data file (i.e., the alleged “metadata”) associated with the captured video clip. In addition, Foreman (in step 230 or any other step) does not disclose that the data file (i.e., the alleged “metadata”) associated with the captured video clip is edited based on additional media content.

- The Examiner also relies on Fig. 9 of Foreman (and its corresponding description at col. 11, l. 3 – col. 12, l. 27). However, Fig. 9 describes several selectable interfaces for performing a detailed editing of the video program, and **not** the data file (i.e., the alleged “metadata”) created in step 220

Therefore, the Applicant maintains the combination of Novak and Foreman does not disclose or suggest at least the limitation of “editing, at said first geographic location, previously created metadata associated with said media content, said editing based on said additional media content,” as recited by the Applicant in independent claim 1.

C. Rejection of Dependent Claims 2, 12 and 22

Claims 2, 12 and 22 depend on independent claims 1, 11 and 21, respectively. Therefore, the Appellant submits that claims 2, 12 and 22 are allowable over the references cited in the Final Office Action at least for the reasons stated above with regard to claims 1, 11 and 21, respectively. The Appellant also submits that the combination of Novak and Foreman does not disclose or suggest at least the limitation of “acquiring prior to said editing, said metadata associated with said media content,” as recited by the Appellant in claim 2.

With regard to claim 2, the Final Office Action states the following at page 10:

In reference to Claim 2, the combination of Novak and Foreman teaches the method of Claim 1, comprising acquiring prior to said edition, said metadata associated with the media content (Novak: the File Type, shown in Fig. 7 and described in Paragraph [0064] is available to the upload individual prior to editing the media content).

The Appellant respectfully disagrees. Firstly, as conceded to by the Examiner, Novak does not disclose any modifying of the existing media content. Secondly, even if we assume, *arguendo*, that the File Type field (Fig. 7) is metadata and is indeed "available to the upload individual", the Examiner's argument is still deficient since neither Novak nor Foreman disclose any specific action of "acquiring" the metadata prior to its editing. Claims 12 and 22 are similar in many respects to the method disclosed in claim 2. Therefore, the Appellant submits that claims 12 and 22 are also allowable over the references cited in the Final Office Action at least for the reasons stated above with regard to claim 2.

The Appellant also reserves the right to argue additional reasons beyond those set forth above to support the allowability of claims 2, 12 and 22.

D. Rejection of Dependent Claims 3, 13 and 23

Claims 3, 13 and 23 depend on independent claims 1, 11 and 21, respectively. Therefore, the Appellant submits that claims 3, 13 and 23 are allowable over the references cited in the Final Office Action at least for the reasons stated above with regard to claims 1, 11 and 21, respectively.

The Appellant also reserves the right to argue additional reasons beyond those set forth above to support the allowability of claims 3, 13 and 23.

E. Rejection of Dependent Claims 4, 14 and 24

Claims 4, 14 and 24 depend on independent claims 1, 11 and 21, respectively. Therefore, the Appellant submits that claims 4, 14 and 24 are allowable over the references cited in the Final Office Action at least for the reasons stated above with regard to claims 1, 11 and 21, respectively.

The Appellant also reserves the right to argue additional reasons beyond those set forth above to support the allowability of claims 4, 14 and 24.

F. Rejection of Dependent Claims 5, 15 and 25

Claims 5, 15 and 25 depend on independent claims 1, 11 and 21, respectively. Therefore, the Appellant submits that claims 5, 15 and 25 are allowable over the references cited in the Final Office Action at least for the reasons stated above with regard to claims 1, 11 and 21, respectively. The Appellant also submits that the combination of Novak and Foreman does not disclose or suggest at least the limitation of "updating said acquired metadata associated with media content to reflect at least a portion of changes associated with said modifying," as recited by the Appellant in claim 5.

With regard to claim 5, the Final Office Action states the following at page 11:

In reference to Claim 5, the combination of Novak and Foreman teaches the method of Claim 2 comprising updating the acquired metadata associated with media content to reflect at least a portion of changes associated with the modifying (Novak: "obtaining program updates" and "provisioning of the synthetic channel" in EPG 153, as described in Paragraphs [0059]; with further reference to Paragraph [0083] "updated EPG 153" performed at Block 1112 of Fig. 11).

The Appellant would like to point out that even though Novak (at paragraph 59) discloses that the STB 152 can obtain program updates for the electronic program guide (EPG) 153, Novak is still silent with regard to updating acquired metadata to reflect at least a portion of changes made during modifying of the corresponding media. The Appellant further notes that the Examiner has already conceded (See p. 8 of the FOA) that Novak does not disclose the modifying of the media, as well as the editing of the metadata based on the modified media. Foreman, as explained above, does not overcome these deficiencies of Novak.

Claims 15 and 25 are similar in many respects to the method disclosed in claim 5. Therefore, the Appellant submits that claims 15 and 25 are also allowable over the references cited in the Final Office Action at least for the reasons stated above with regard to claim 5.

The Appellant also reserves the right to argue additional reasons beyond those set forth above to support the allowability of claims 5, 15 and 25.

G. Rejection of Dependent Claims 6, 16 and 26

Claims 6, 16 and 26 depend on independent claims 1, 11 and 21, respectively. Therefore, the Appellant submits that claims 6, 16 and 26 are allowable over the references cited in the Final Office Action at least for the reasons stated above with regard to claims 1, 11 and 21, respectively.

The Appellant also reserves the right to argue additional reasons beyond those set forth above to support the allowability of claims 6, 16 and 26.

H. Rejection of Dependent Claims 7, 17 and 27

Claims 7, 17 and 27 depend on independent claims 1, 11 and 21, respectively. Therefore, the Appellant submits that claims 7, 17 and 27 are allowable over the references cited in the Final Office Action at least for the reasons stated above with regard to claims 1, 11 and 21, respectively.

The Appellant also reserves the right to argue additional reasons beyond those set forth above to support the allowability of claims 7, 17 and 27.

I. Rejection of Dependent Claims 10, 20 and 30

Claims 10, 20 and 30 depend on independent claims 1, 11 and 21, respectively. Therefore, the Appellant submits that claims 10, 20 and 30 are allowable over the references cited in the Final Office Action at least for the reasons stated above with

regard to claims 1, 11 and 21, respectively. The Appellant also submits that the combination of Novak and Foreman does not disclose or suggest at least the limitation of "synchronizing said modified media content for presentation in said personal television channel," as recited by the Appellant in claim 10.

With regard to claim 10, the Final Office Action states the following at pages 11-12:

In reference to Claim 10, the combination of Novak and Foreman teaches the method of Claim 1 comprising synchronizing the modified media content for presentation in the personal television channel (Novak: content modified by uploading individual is synchronized to the time axis of EPG 152 based on the associated time slots of "Joe's TV Channel", as shown in Figs. 8 and 9; with further reference to Paragraphs [0063, 0071-0075]).

The Appellant respectfully disagrees. The only synchronization disclosed by Novak is in paragraph 0072 and it relates to synchronizing the displayed information in the EPG 802 with the actual transmission of the media objects from the server 508 (i.e., timing synchronization of what is displayed in the EPG and what is being transmitted to the user). Novak, at the above citations or any remaining citation, does not disclose that any synchronization of the modified media takes place in the personal television channel. In fact, by the Examiner's own admission, Novak does not even disclose modification of the media (See p. 8 of the FOA). Foreman does not overcome these deficiencies of Novak. Claims 20 and 30 are similar in many respects to the method disclosed in claim 10. Therefore, the Appellant submits that claims 20 and 30 are also

allowable over the references cited in the Final Office Action at least for the reasons stated above with regard to claim 10.

The Appellant also reserves the right to argue additional reasons beyond those set forth above to support the allowability of claims 10, 20 and 30.

J. Rejection of Dependent Claims 32 and 36

Claims 32 and 36 depend on independent claims 1 and 21, respectively. Therefore, the Appellant submits that claims 32 and 36 are allowable over the references cited in the Final Office Action at least for the reasons stated above with regard to claim 1.

The Appellant also reserves the right to argue additional reasons beyond those set forth above to support the allowability of claims 32 and 36.

K. Rejection of Dependent Claim 31

Claim 31 depends on independent claim 21. Therefore, the Appellant submits that claim 31 is allowable over the references cited in the Final Office Action at least for the reasons stated above with regard to claim 21.

The Appellant also reserves the right to argue additional reasons beyond those set forth above to support the allowability of claim 31.

II. The Proposed Combination of Novak, Foreman and Weber Does Not Render Claims 8-9, 18-19 and 28-29 Unpatentable

A. Rejection of Dependent Claims 8, 18 and 28

Claims 8, 18 and 28 depend on independent claims 1, 11 and 21, respectively. Therefore, the Appellant submits that claims 8, 18 and 28 are allowable over the references cited in the Final Office Action at least for the reasons stated above with regard to claims 1, 11 and 21, respectively.

The Appellant also reserves the right to argue additional reasons beyond those set forth above to support the allowability of claims 8, 18 and 28.

B. Rejection of Dependent Claims 9, 19 and 29

Claims 9, 19 and 29 depend on independent claims 1, 11 and 21, respectively. Therefore, the Appellant submits that claims 9, 19 and 29 are allowable over the references cited in the Final Office Action at least for the reasons stated above with regard to claims 1, 11 and 21, respectively.

The Appellant also reserves the right to argue additional reasons beyond those set forth above to support the allowability of claims 9, 19 and 29.

III. The Proposed Combination of Novak, Foreman and Appellant's admission of fact Does Not Render Claims 33, 35 and 37 Unpatentable

Claims 33, 35 and 37 depends on independent claims 1, 11, and 21, respectively. Therefore, the Appellant submits that claims 33, 35 and 37 are allowable

over the references cited in the Final Office Action at least for the reasons stated above with regard to claim 21.

The Appellant also reserves the right to argue additional reasons beyond those set forth above to support the allowability of claims 33, 35 and 37.

CONCLUSION

For at least the foregoing reasons, the Appellant submits that claims 1-37 are in condition for allowance. Reversal of the Examiner's rejection and issuance of a patent on the application are therefore requested.

The Commissioner is hereby authorized to charge \$540 (to cover the Brief on Appeal Fee) and any additional fees or credit any overpayment to the deposit account of McAndrews, Held & Malloy, Ltd., Account No. 13-0017.

Respectfully submitted,

Date: 07-FEB-2011

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(OIB)

CLAIMS APPENDIX
(37 C.F.R. § 41.37(c)(1)(viii))

1. A method for producing and delivering media content, the method comprising:

establishing a personal television channel at a first geographic location, said personal television channel associated with existing media content;

creating metadata associated with said existing media content;

modifying said existing media content with additional media content to produce a media program, wherein said metadata is created previously to said modifying;

editing, at said first geographic location, said previously created metadata associated with said media content, said editing based on said additional media content;

associating said produced media program and said edited metadata with said established personal television channel; and

communicating said produced media program along with said edited metadata to another geographic location.

2. The method according to claim 1, comprising acquiring prior to said editing, said metadata associated with said media content.

3. The method according to claim 2, wherein said acquired metadata is one or both of program metadata and/or primitive metadata.

4. The method according to claim 1, comprising delivering said produced media program along with said edited metadata from said first geographic location to a second geographic location, for displaying at said second geographic location.

5. The method according to claim 2, comprising updating said acquired metadata associated with media content to reflect at least a portion of changes associated with said modifying.

6. The method according to claim 5, comprising displaying at least a portion of said produced media program.

7. The method according to claim 1, wherein said modifying comprises augmenting and editing said media content.

8. The method according to claim 1, comprising determining whether a media program comprises said modified media content.

9. The method according to claim 8, comprising, if said media program comprises said modified media content, processing said media program based on metadata associated with said modified media content.

10. The method according to claim 1, comprising synchronizing said modified media content for presentation in said personal television channel.

11. A non-transitory computer-readable medium having stored thereon, a computer program having at least one code section for producing and delivering media content, the at least one code section being executable by a machine for causing the computer to perform steps comprising:

establishing a personal television channel at a first geographic location, said personal television channel associated with existing media content;

creating metadata associated with said existing media content;

modifying said existing media content with additional media content to produce a media program, wherein said metadata is created previously to said modifying;

editing, at said first geographic location, said previously created metadata associated with said media content, said editing based on said additional media content;

associating said produced media program and said edited metadata with said established personal television channel; and

communicating said produced media program along with said edited metadata to another geographic location.

12. The non-transitory computer-readable medium according to claim 11, comprising code for acquiring prior to said editing, said metadata associated with said media content.

13. The non-transitory computer-readable medium according to claim 12, wherein said acquired metadata is one or both of program metadata and/or primitive metadata.

14. The non-transitory computer-readable medium according to claim 11, comprising code for delivering said produced media program along with said edited metadata from said first geographic location to a second geographic location, for displaying at said second geographic location.

15. The non-transitory computer-readable medium according to claim 12, comprising code for updating said acquired metadata associated with media content to reflect at least a portion of changes associated with said modifying.

16. The non-transitory computer-readable medium according to claim 15, comprising code that causes display of at least a portion of said produced media program.

17. The non-transitory computer-readable medium according to claim 11, comprising code for augmenting and editing said media content.

18. The non-transitory computer-readable medium according to claim 11, comprising code for determining whether a media program comprises said modified media content.

19. The non-transitory computer-readable medium according to claim 18, comprising code for processing said media program based on metadata associated with said modified media content, if said media program comprises said modified media content.

20. The non-transitory computer-readable medium according to claim 11, comprising code for synchronizing said modified media content for presentation in said personal television channel.

21. A system for producing and delivering media content, the system comprising:

at least one processor for establishing a personal television channel at a first geographic location, said personal television channel associated with existing media content;

said at least one processor enables creating metadata associated with said existing media content;

said at least one processor enables modifying said existing media content with additional media content to produce a media program, wherein said metadata is created previously to said modifying;

said at least one processor enables editing, at said first geographic location, of previously created metadata associated with said media content, said editing based on said additional media content;

said at least one processor enables associating of said produced media program and said edited metadata with said established personal television channel; and

said at least one processor enables communicating said produced media program along with said edited metadata to another geographic location.

22. The system according to claim 21, wherein said at least one processor enables acquiring, prior to said editing, of said metadata associated with said media content.

23. The system according to claim 22, wherein said acquired metadata is one or both of program metadata and/or primitive metadata.

24. The system according to claim 21, wherein said at least one processor enables controlling of delivering of said produced media program along with said edited

metadata from said first geographic location to a second geographic location, for displaying at said second geographic location.

25. The system according to claim 22, wherein said at least one processor enables updating of said acquired metadata associated with media content to reflect at least a portion of changes associated with said modifying.

26. The system according to claim 25, wherein said at least one processor enables displaying of at least a portion of said produced media program.

27. The system according to claim 21, wherein said at least one processor enables augmenting and editing of said media content.

28. The system according to claim 21, wherein said at least one processor enables determining of whether a media program comprises said modified media content.

29. The system according to claim 28, wherein said at least one processor enables processing of said media program based on metadata associated with said modified media content, if said media program comprises said modified media content.

30. The system according to claim 21, wherein said at least one processor enables synchronizing of said modified media content for presentation in said personal television channel.

31. The system according to claim 21, wherein said at least one processor is one or more of a computer processor, a media exchange software processor, a media peripheral processor, a storage processor and/or a media exchange server processor.

32. The method according to claim 1, wherein said communicating comprises pushing said produced media program along with said edited metadata directly to said another geographic location, for consumption at said another geographic location.

33. The method according to claim 32, wherein said first geographic location and said another geographic location are residential locations.

34. The non-transitory computer-readable medium according to claim 11, wherein said code for communicating comprises code for pushing said produced media program along with said edited metadata directly to said another geographic location, for consumption at said another geographic location.

35. The non-transitory computer-readable medium according to claim 34, wherein said first geographic location and said another geographic location are residential locations.

36. The system according to claim 21, wherein said at least one processor enables pushing of said produced media program along with said edited metadata directly to said another geographic location, for consumption at said another geographic location.

37. The system according to claim 36, wherein said first geographic location and said another geographic location are residential locations.

EVIDENCE APPENDIX
(37 C.F.R. § 41.37(c)(1)(ix))

- (1) United States Patent Pub. No. 2002/0120925 ("Logan"), entered into record by the Examiner in the November 14, 2007 Office Action.
- (2) United States Patent Pub. No. 2003/0122966 ("Markman"), entered into record by the Examiner in the November 14, 2007 Office Action.
- (3) United States Patent Pub. No. 2002/0104099 ("Novak"), entered into record by the Examiner in the May 13, 2008 Office Action.
- (4) United States Patent No. 7,284,032 ("Weber"), entered into record by the Examiner in the May 13, 2008 Office Action.
- (5) United States Patent No. 6,628,303 ("Foreman"), entered into record by the Examiner in the March 31, 2009 Office Action.
- (6) Applicant's admission of fact, entered into record by the Examiner in the January 21, 2010 Office Action.

RELATED PROCEEDINGS APPENDIX
(37 C.F.R. § 41.37(c)(1)(x))

The Appellant is unaware of any related appeals or interferences.